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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,325	03/24/2004	Keith Friedman	0010401	4018
42329	7590	12/18/2006		
MARK RODGERS 1590 SAN ROQUE ROAD SANTA BARBARA, CA 93105			EXAMINER ABRAHAM, TANIA	
			ART UNIT	PAPER NUMBER
			3636	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/18/2006	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/807,325	<b>Applicant(s)</b> FRIEDMAN ET AL.	
	<b>Examiner</b> Tania Abraham	<b>Art Unit</b> 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-9,11 and 12 is/are rejected.
- 7) ☒ Claim(s) 3 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### ***Claim Objections***

1. Claims 4, 5 and 7-9 are objected to because of the following minor informalities: in claim 4 line 6, the word --in-- should be inserted after "is"; in claim 5 line 4, [roll-over] should be replaced with --rollover--; in claim 7 line 3, [the occupant] should be replaced with --an occupant--; in claim 8 line 26, --in-- should be inserted after "is"; and in claim 9 line 3, --a-- should be inserted before "seat recliner". Appropriate correction is required.
2. Claims 11 and 12 are objected to because of the following informalities: it appears incorrect claim status identifiers have been used for claims 11 and 12. The applicant cannot withdraw a claim(s) when there has been no restriction requirement. The claims have been treated in this action. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Bayley and Yokota et al. Bayley (fig. 1-3) discloses a power adjustable vehicle seat 18 with a pre-tensioned seatbelt 30 connected to an electronic control unit 28 (hereafter referred to as ECU), which in turn is connected to a rollover sensor 68 and a seatbelt sensor 40. The power adjustable device 26 of the seat is motor-driven and affects the

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height of the seat. In the event that the rollover sensor signals a possible rollover, the ECU determines if the vehicle is in a true rollover condition. In an actual rollover, the ECU activates a seatbelt pretension device 38 to tighten the seatbelt and activates the power adjuster to lower the seat to its lowest level. While the vehicle drives and speeds a motor connected to an occupant protection system would experience are well-known in the art (i.e., low speed power adjustment under normal conditions – high speed power adjustment under collision/accident conditions); Yokota et al (col. 3 and 4) shows these features are inherent, or conventional.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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7. Claims 4 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayley in view of Andersson [US 6076887] and Yokota et al [US 6574540 B2]. Bayley disclosed structure previously detailed with the exception of having bags (or similar structure) disposed within the interior of the backrest and/or the seat, whose volume is adjustable and so affects the depth of the seat. Andersson (fig. 6-8) teaches having a compressible element 44,45 inside the backrest and seat that is compressed in response to the rollover sensor signaling that the vehicle is experiencing a rollover. Bayley's system lowers the seat to move the occupants' head away from the roof of the vehicle, in response to a rollover sensor. Andersson teaches that compression of the backrest and seat, in cooperation with the tightening of a pre-tensioned seatbelt draws the occupant further into the seat and moves the occupants' head away from the roof of the vehicle, in response to a rollover sensor. In light of Andersson's teaching, it would have been evident to a person skilled in the art at the time of invention to modify Bayley's system in order to protect an occupants' head during a vehicle rollover.
8. Regarding claim 7, Bayley does not disclose a weight or size sensor, but Yokota et al (fig. 1-15) teaches having a weight sensor 81 that signals the ECU 11. The ECU processes the signal to determine the restraining amount to be outputted to the seatbelt 40. It would have been obvious to one of ordinary skill in the art at the time of invention to modify Bayley's system to include a weight sensor according to the teaching of Yokota et al in order to provide the safest response by the ECU.

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9. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bayley in view of Andersson. Bayley discloses structure previously noted with the exception of a reclineable of the backrest triggered by the rollover sensor. Andersson (fig. 3-5) discloses a seat having a conventional recliner. Andersson teaches to recline the backrest, using a piston with a pyrotechnic charge that is activated by the rollover sensor, to move the occupants' head away from the roof of the vehicle during a rollover. So it would have been obvious to a person skilled in the art at the time of invention to adapt Bayley's system consistent with Andersson's teaching in order to protect an occupants' head during a vehicle rollover.

#### ***Allowable Subject Matter***

10. Claims 3 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

11. Applicant's arguments filed August 29, 2006 have been fully considered but they are not persuasive. Applicants argue that seat height actuation is more effective for a truck cab than a majority of automobile designs. However, this argument is not relevant for the following reasons:

- A vehicle seat is claimed, and "vehicle" includes all automobile designs.

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- In the claims, the vehicle seat includes a power adjustment actuator for either a recliner, a height adjuster or a seat slide adjuster. Bayley was relied upon for a seat with a height adjuster.
- Bayley's patent shows the height adjuster being controlled by and a part of an occupant protection system in a vehicle (other than a truck) as an effective means of occupant protection.

Claims 11 and 12 describe a means for power adjustment of the seat, but do not claim that the seat recliner is actuated by that power adjustment. Therefore, Andersson's patent is still applicable.

Applicants' argument regarding the multiple speeds of the motor is addressed in the Anticipation rejection above.

**12.** Please note the Examiner did not understand the relevance of some of the arguments presented in the Applicants' reply, as they seem to contradict the claims or at least do not fully support the claims. Because while the arguments give considerable weight to the seat recline function of the invention, this preference is not reflected in the claims.

***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.

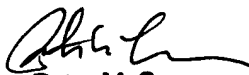
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TA

  
**Peter M. Cuomo**  
Supervisory Patent Examiner  
Technology Center 3600